

# Guidelines for working with young people

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## 1. Other definitions used in these Guidelines

### 1.1. Young person

For the purposes of these *Guidelines* the terms “young person” or “young persons” mean a child or children and adolescent or adolescents under the age of 18 years.

### 1.2. Young person’s capacity to give informed consent

In Australia a young person is considered capable of giving informed consent when he or she “achieves a sufficient understanding and intelligence to enable him or her to understand fully what is proposed”. The law in Australia was stated by the High Court in *Re: Marion* (1992).

As part of the process of obtaining informed consent a *psychologist* determines whether the young person:

- can understand the nature of the proposed *psychological service*;
- can understand the benefits and risks of the proposed *psychological service*;
- can understand the consequences of receiving or not receiving the proposed *psychological service*;
- has the capacity to make an informed choice; and
- can understand the limits to confidentiality.

### 1.3. Parent

For the purposes of these *Guidelines* a parent is defined as a person who has legal responsibility for a young person. Legal responsibility includes guardianship, adoption, custody, joint parental responsibility and equal shared parental responsibility. Where there are no Court Orders each of the parents, whether separated or not, continue to have parental responsibility. A parent’s parental responsibility for their child may be limited or diminished by a parenting order of the Court. There are some limited circumstances when the Court makes a parenting order that provides sole parental responsibility to one parent or other person. The Children’s Court may use terms such as Guardianship and Custody, and other Courts and Tribunals may also use the term, ‘primary carer’, (refer to the Appendix).

### 1.4. Client-parent

The parent (or parents) who contracts or engages a *psychologist* to provide a *psychological service* for a young person is referred to in these *Guidelines* as the “*client-parent*”. In situations where a fee is to be paid for the *psychological service*, the *client-parent* is the parent who contracts or engages the *psychologist* and pays for that *psychological service* for a young person.

### 1.5. Other parent

When only one parent (the *client-parent*) contracts or engages a *psychological service* for a young person and there exists a parent who has not been involved in the arrangement of the *psychological service* for the young person, for the purposes of these *Guidelines*, the latter parent is referred to as the “other parent”.

## 2. Introduction

2.1. These *Guidelines* apply to *psychologists* who provide *psychological services* to young people. They have been developed due to the special needs and vulnerabilities of young people and in recognition of young people’s entitlement to receive *psychological services*. The context and nature of the *psychological service*, and how it may impact on the young person, their family and others are critical considerations in the provision of *psychological services* to young people.

2.2. The *Guidelines for working with young people* should be read in conjunction with the *Code* and other *Guidelines*, particularly the *Guidelines on confidentiality* (2007).

Refer to the *Code*, General Principle A – Respect for the rights and dignity of people and peoples.

*Psychologists* regard people as intrinsically valuable and respect their rights, including the right to autonomy and justice. *Psychologists* engage in *conduct* which promotes equity and the protection of people’s human rights, *legal rights*, and *moral rights*. They respect the dignity of all people and peoples.

- 2.3. As part of their usual practice, *psychologists* work towards respecting and nurturing the child-parent relationship when working with young people. However, *psychologists* remain aware of the possibilities of conflicting views between the parents and the young person about the young person's developing right to autonomy and also of the possibility of the risk of harm or neglect by parents. In balancing these concerns, *psychologists* consider the best interests of the young person as paramount.
- 2.4. When providing a *psychological service* to a young person whose parents are separated or divorced, *psychologists* are aware of the potential for increased complexity of the circumstances in which the *psychological service* is sought. A significant proportion of separating couples experience high levels of conflict, and *psychologists* are particularly mindful of the need for safety for the *clients*, relevant others and themselves. Refer also to Sections 3.9., 3.10. and 8.
- 2.5. In the following states of Australia people working with young people in counselling or support services for young people are required to have completed a background check or obtained a prescribed notice before commencing work with young people:

NSW – *Commission for Children and Young People Act* (1998);  
 SA – *Children's Protection Act* (1993);  
 VIC – *Working with Children Act* (2005); and  
 WA – *Working with Children (Criminal Record Checking) Act* (2004).

In Queensland, the criteria for requiring a background check through the *Commission for Children and Young People and Child Guardian Act* (2000) relate to a person's area of employment. Registered psychologists working in "Health, counselling and support services" settings are exempt from such a background check. However, if a psychologist works in a school setting in Queensland they are required to undergo a background check.

### 3. Psychologist responsibilities

Refer to the *Code*, standard B.3. Professional responsibility.

B.3. *Psychologists* provide *psychological services* in a responsible manner. Having regard to the nature of the *psychological services* they are providing, *psychologists*:

- (a) act with the care and skill expected of a competent *psychologist*;
- (b) take responsibility for the reasonably foreseeable consequences of their *conduct*;
- (c) take reasonable steps to prevent harm occurring as a result of their *conduct*;
- (d) provide a *psychological service* only for the period when those services are necessary to the *client*;
- (e) are personally responsible for the professional decisions they make;
- (f) take reasonable steps to ensure that their services and products are used appropriately and responsibly;
- (g) are aware of, and take steps to establish and maintain proper professional boundaries with *clients* and colleagues; and
- (h) regularly review the contractual arrangements with *clients* and, where circumstances change, make relevant modifications as necessary with the informed consent of the *client*.

Refer to the *Code*, standard A.3. Informed consent.

A.3.1. *Psychologists* fully inform *clients* regarding the *psychological services* they intend to provide, unless an explicit exception has been agreed upon in advance, or it is not reasonably possible to obtain informed consent.

A.3.2. *Psychologists* provide information using plain language.

A.3.3. *Psychologists* ensure consent is informed by:

- (a) explaining the nature and purpose of the procedures they intend using;
- (b) clarifying the reasonably foreseeable risks, adverse effects, and possible disadvantages of the procedures they intend using;
- (c) explaining how information will be collected and recorded;
- (d) explaining how, where, and for how long, information will be stored, and who will have access to the stored information;
- (e) advising *clients* that they may participate, may decline to participate, or may withdraw from methods or procedures proposed to them;

- (f) explaining to *clients* what the reasonably foreseeable consequences would be if they decline to participate or withdraw from the proposed procedures;
- (g) clarifying the frequency, expected duration, financial and administrative basis of any *psychological services* that will be provided;
- (h) explaining confidentiality and limits to confidentiality (see standard A.5.);
- (i) making clear, where necessary, the conditions under which the *psychological services* may be terminated; and
- (j) providing any other relevant information.

Refer to the Code, standard B.1. Competence.

B.1.2. *Psychologists* only provide *psychological services* within the boundaries of their professional competence. This includes, but is not restricted to:

- (a) working within the limits of their education, training, supervised experience and appropriate professional experience;
- (b) basing their service on the established knowledge of the discipline and profession of psychology;
- (c) adhering to the Code and the *Guidelines*;
- (d) complying with the law of the *jurisdiction* in which they provide *psychological services*; and
- (e) ensuring that their emotional, mental, and physical state does not impair their ability to provide a competent *psychological service*.

- 3.1. *Psychologists* have a responsibility to both the young person and to the *client*-parent who contracts or engages a *psychological service* for a young person. *Psychologists* discuss and clarify with the young person and the *client*-parent issues of consent, confidentiality and disclosure at the outset of the *psychological service*. This discussion may include clarifying and establishing the intended level of participation of the other parent. The actual level of other parent participation may need to be monitored and evaluated over the duration of the *psychological service*. Refer also to Section 5.2. Disclosure of a young person's information.
- 3.2. *Clients* of agencies, businesses, schools, hospitals, or other organisations need to be informed from the outset about how their personal information may be used and disclosed to others. Where *psychologists'* conditions of employment require disclosure of *client* information, they clarify these matters with the young person and the *client*-parent, if applicable, at the outset. In the context of hospitals and health-care settings, it is common to have a team approach to *client* treatment which may require sharing of *client* information. Further, in the context of correctional services, issues of safety and security may require the disclosure of *client* information within the organisation.

Refer to *Guidelines for psychological services involving multiple clients* (2006).

Refer to the Code, General Principle C - Integrity.

*Psychologists* recognise that their position of trust requires them to be honest and objective in their professional dealings. They are committed to the best interests of their clients, the profession and their colleagues. *Psychologists* are aware of their own biases, limits to their objectivity, and the importance of maintaining proper boundaries with *clients*. They identify and avoid potential conflicts of interest. They refrain from exploiting *clients* and associated parties.

- 3.3. Where there is a conflict between the interests of the *client*-parent and the young person, *psychologists* consider the young person's best interests as paramount.
- 3.4. When providing a *psychological service* to a young person *psychologists* assess the capacity of the young person to provide informed consent (see Sections 4.2 & 4.3), and obtain such informed consent where appropriate. *Psychologists* are aware that a young person's capacity to provide consent may change over time, and that capacity is reviewed accordingly.
- 3.5. *Psychologists* are aware of the risks that may apply to a young person who is taken by a parent to many different psychologists. Prior to providing a *psychological service*, *psychologists* clarify whether the young person has consulted other psychologists, and the circumstances under which the services were provided.
- 3.6. When *psychologists* are contracted or engaged to provide a *psychological service* to a young person, *psychologists* enquire whether there are any relevant current or pending court proceedings including, but not limited to, the Family Court and Children's Courts.

- 3.7. When *psychologists* are contracted or engaged to provide a *psychological service* to a young person, the consent and involvement of both parents is desirable, although not legally required. *Psychologists* are aware that there are situations where this is not possible, or appropriate. Refer also to Section 3.10.
- 3.8. When *psychologists* are aware that the *client*-parent has not separated from the other parent, they may assume that the *client*-parent has the legal authority necessary to engage *psychological services* on behalf of the young person.
- 3.9. When *psychologists* are aware that the parents are separated and there are no Court Orders in relation to the young person, they may assume that the *client*-parent has the legal authority necessary to engage *psychological services* on behalf of the young person.
- 3.10. When *psychologists* are aware that the parents are separated and there are existing Court Orders, *psychologists* are not required to establish whether the decision to consult a psychologist has been made jointly by the parents.
- 3.11. If the *client*-parent reports that they do not wish the other parent to be involved, or reports that the other parent opposes the decision for the young person to see a psychologist, or the other parent informs the *psychologist* directly of their opposition to the young person seeing a psychologist, then the *psychologist* makes further enquiries with the *client*-parent and the young person and makes a professional judgement about whether to provide a *psychological service* to the young person. In making that decision the *psychologist* considers the best interests of the young person as paramount.
- 3.12. When *psychologists* are aware that there are existing Court Orders and those orders state that the *client*-parent has sole responsibility for the young person, then the consent of the *client*-parent is sufficient to proceed with the *psychological service*, assuming the young person does not have the capacity to give informed consent. See Sections 4.2. and 4.3. in relation to the requirements for the young person's consent.

## 4. Capacity to contract and engage psychological services

- 4.1. Who may seek psychological services to be provided to a young person
  - 4.1.1. As defined in Section 1, a parent with legal responsibility for a young person may contract or engage *psychological services* for that young person.
  - 4.1.2. A young person who has the capacity to give informed consent is entitled to engage *psychological services* for himself or herself, subject to the young person's capacity to pay the fees of the *psychological service* in those circumstances where fees are charged.
  - 4.1.3. When a young person is capable of giving informed consent and is accompanied by the *client*-parent, *psychologists* may only provide the *psychological service* with the consent of the young person, unless the *psychologist* provides a *psychological service* in an emergency.
  - 4.1.4. When a young person is **not** capable of giving informed consent, *psychologists* may only provide *psychological services* with the consent of the *client*-parent, unless the *psychologist* provides a *psychological service* in an emergency.
- 4.2. Young person who has the capacity to give informed consent
  - 4.2.1. A young person who is capable of giving informed consent is entitled to engage and consent to receive, continue, or terminate *psychological services* (subject to the young person's capacity to pay if there are any fees applicable for the *psychological service*), and to express wishes as to who may or may not receive any of their confidential information. *Psychologists* respect the young person's wishes regarding confidentiality, and do not divulge any confidential information contrary to the young person's wishes, except as specified in Section 5.1. – Limits to confidentiality.



- 4.2.2. A young person with an intellectual disability may also be capable of giving informed consent, and *psychologists* conduct an assessment of such a young person in accordance with Section 1.2. *Psychologists* are cognisant of the rights and entitlements of young people with an intellectual disability, who, if capable of giving informed consent, may also engage *psychological services*. Similar to young people without an intellectual disability, there is no specified age at which a young person with an intellectual disability may be found to be capable of giving informed consent.
- 4.2.3. If a *client*-parent challenges a *psychologist's* judgement that a young person has the capacity to give informed consent, the *psychologist* explains the rationale in reaching his or her decision by describing how the young person meets the criteria outlined in Section 1.2.

#### 4.3. Young person who does not have the capacity to give informed consent

Refer to the *Code*, standard A.3. Informed Consent.

A.3.6. *Psychologists* who work with *clients* whose capacity to give consent is, or may be, impaired or limited, obtain the consent of people with legal authority to act on behalf of the *client*, and attempt to obtain the *client's* consent as far as practically possible.

A.3.7. *Psychologists* who work with *clients* whose consent is not required by law still comply, as far as practically possible, with the processes described in A.3.1., A.3.2., and A.3.3.

- 4.3.1. If a *psychologist* makes a judgement that a young person lacks the capacity to give informed consent to a *psychological service*, then only the *client*-parent's consent is required.
- 4.3.2. If a young person does not have the capacity to give informed consent, and an adult who is not a parent seeks to contract or engage *psychological services* for the young person, *psychologists* clarify the adult's legal authority to do so for the young person. A consent form to be completed by the adult could include at least the following two questions:
- What is the adult's relationship with the young person?
  - Does the adult have legal authority to engage *psychological services* for the young person?
- 4.3.3. Unless Section 4.3.4. applies, if the adult who is seeking to contract or engage the *psychological service* does not have legal authority for the young person, and the young person does not have the capacity to provide informed consent, *psychologists* do not provide a *psychological service* until a person with the appropriate legal responsibility for the young person provides consent.
- 4.3.4. Exceptions to Section 4.3.3. are when the *psychological service* is sought or is provided in an emergency or exceptional circumstances where the immediate treatment of the young person is necessary to protect the young person's wellbeing. The *psychologist* is responsible for obtaining written consent from the young person's parent or person with legal responsibility as soon as practicable thereafter, and prior to providing any further *psychological services*.

#### 4.4. When a young person seeks a psychological service without parental consent

Refer to the *Code*, standard B.3. Professional responsibility. (See Section 3 above)

*Psychologists* may provide *psychological services* to a young person without parental consent provided that the *psychologist* is satisfied that the young person has the capacity to give informed consent, that is, the young person has achieved "sufficient understanding and intelligence to enable him or her to understand fully what is proposed" (Re: Marion, 1992). Depending on the circumstances of the case, and if appropriate, the *psychologist* encourages the young person to discuss the matter with his/her parent. See also Sections 1.2. and 4.1.2.

## 5. Confidentiality

Refer to the *Code*, standard A.5. Confidentiality.

A.5.1. *Psychologists* safeguard the confidentiality of information obtained during their provision of *psychological services*. Considering their legal and organisational requirements, *psychologists*:

- (a) make provisions for maintaining confidentiality in the collection, recording, accessing, storage, dissemination, and disposal of information; and
- (b) take reasonable steps to protect the confidentiality of information after they leave a specific work setting, or cease to provide *psychological services*.

A.5.2. *Psychologists* disclose confidential information obtained in the course of their provision of *psychological services* only under any one or more of the following circumstances:

- (a) with the consent of the relevant *client* or a person with legal authority to act on behalf of the *client*;
- (b) where there is a legal obligation to do so;
- (c) if there is an immediate and specified risk of harm to an identifiable person or persons that can be averted only by disclosing information; or
- (d) when consulting colleagues, or in the course of supervision or professional training, provided the *psychologist*:
  - (i) conceals the identity of *clients* and *associated parties* involved; or
  - (ii) obtains the *client's* consent, and gives prior notice to the recipients of the information that they are required to preserve the *client's* privacy, and obtains an undertaking from the recipients of the information that they will preserve the *client's* privacy.

Refer to *Guidelines for reporting child abuse and neglect, and criminal activity* (2003); *Guidelines on psychological practice in rural and remote settings* (2004); and *Guidelines on confidentiality* (2007).

### 5.1. Limits to confidentiality

- 5.1.1. Standard A.5. Confidentiality applies to any disclosure of information. As with all *clients*, confidentiality is an essential part of providing *client psychological services* to young people.
- 5.1.2. *Psychologists* inform the young person and the *client*-parent about the legal and other limits to confidentiality prior to any decision being made to consent to the *psychological service*.
- 5.1.3. *Psychologists* are cognisant of, and comply with, any legal requirements to report child abuse and neglect. These requirements may differ in each State and Territory of Australia. *Psychologists* communicate these legal requirements clearly and in language that can be understood by the young person and the *client*-parent(s).
- 5.1.4. In those unusual circumstances where failure to disclose a young person's information may result in clear risk to the young person or to others, a *psychologist* may disclose information necessary to avert risk.
- 5.1.5. Matters to be considered by *psychologists* in discussing the limits to confidentiality include:
  - the context within which the *psychological service* is provided;
  - the nature of the *psychological service* offered or proposed (e.g., assessment, counselling);
  - who is paying the fees for the *psychological service*;
  - *psychologists'* employment obligations or contractual obligations; and
  - any legal and other limits to confidentiality.

Different settings and types of referral such as mental health, schools, the Family Court, and children's protective services will have different implications for the limits to confidentiality.

- 5.1.6. A young person who is **not** capable of giving informed consent is entitled to be informed of the limits to confidentiality. *Psychologists* use language that the young person can understand which is determined by the young person's age, maturity and capacity, and the context and purpose of the *psychological service* to be provided.

## 5.2. Disclosure of a young person's information

- 5.2.1. When making a judgement whether to disclose a young person's information, *psychologists* consider the young person's best interests as paramount.
- 5.2.2. *Psychologists* clarify with the young person and the *client*-parent at the outset of the *psychological service*:
- a) what, if any, information which the young person tells the *psychologist* may be disclosed by the *psychologist* to the *client*-parent;
  - b) what, if any, information which the young person tells the *psychologist* may be disclosed by the *psychologist* to the other parent; and
  - c) what, if any, information which the young person tells the *psychologist* may be disclosed by the *psychologist* to any other third parties.
- 5.2.3. When a young person has the capacity to give informed consent, the consent of the young person is required for any disclosure of the young person's information by the *psychologist* to the *client*-parent, the other parent (if any) and to third parties. The *psychologist* has a duty to maintain the young person's confidentiality and to limit any disclosure in accordance with the express wishes of the young person, unless there is clear risk to the young person or to others. Refer also to Sections 2.3., 4.2.1. and 4.4.
- 5.2.4. If a young person does not wish his/her communications to be disclosed to the *client*-parent, the other parent (if any) and third parties, and this is in conflict with the wishes of the *client*-parent, the *psychologist* discusses and attempts to resolve this conflict with the young person and the *client*-parent prior to proceeding with the *psychological service*.
- 5.2.5. If a *psychologist* considers that a young person lacks the capacity to give informed consent, then only the *client*-parent's consent is required for any disclosure of the young person's information by the *psychologist*. Nevertheless, the young person's wishes about disclosure of his or her communications by the *psychologist* to the *client*-parent, other parent (if any) and to third parties is sought and respected if possible. The age, maturity and capacity of the young person and the context and purpose of the *psychological service* to be provided are taken into account.
- 5.2.6. If a third party (e.g., schools, courts, government agencies, funding bodies, and insurance companies) requests or directs the *client*-parent to seek a *psychological service* for the young person, and then seeks a report based upon the *psychological service* provided to the young person, the *psychologist* ensures that the *client*-parent and young person are fully aware of the nature, purpose and consequence of the report being sought. This would include, but is not limited to:
- the purpose of the service;
  - the reasonably anticipated use that will be made of the report and/or information collected or disclosed; and
  - the legal and other limits to confidentiality.

## 5.3. Groups

Refer to the *Code*, standard A.3. Informed consent.

A.3.3. *Psychologists* ensure consent is informed by:

- (a) explaining the nature and purpose of the procedures they intend using;
- (b) clarifying the reasonably foreseeable risks, adverse effects, and possible disadvantages of the procedures they intend using;
- (c) explaining how information will be collected and recorded;
- (d) explaining how, where, and for how long, information will be stored, and who will have access to the stored information;
- (e) advising *clients* that they may participate, may decline to participate, or may withdraw from methods or procedures proposed to them;
- (f) explaining to *clients* what the reasonably foreseeable consequences would be if they decline to participate or withdraw from the proposed procedures;
- (g) clarifying the frequency, expected duration, financial and administrative basis of any *psychological services* that will be provided;



- (h) explaining confidentiality and limits to confidentiality (see standard A.5.);
- (i) making clear, where necessary, the conditions under which the *psychological services* may be terminated; and
- (j) providing any other relevant information.

Refer to the *Code*, standard A.5. Confidentiality. (see the start of Section 5 above)

For situations where *psychological services* are provided to young people in a group format, *psychologists* explain and establish from the outset the expectations of keeping confidential the information disclosed in sessions, as well as the limits to confidentiality.

## 6. Contract and change of contract

- 6.1. When *psychologists* are contracted or engaged to provide a *psychological service* for a young person, *psychologists* have a responsibility to identify clearly the purpose of the service being sought, the nature of the service they will provide and whether the young person will be seen by the *psychologist* on his or her own or with the *client-parent*, and to clarify those matters with the young person and *client-parent* (if any) before providing a *psychological service*.
- 6.2. If the circumstances upon which the *psychological service* is to be provided for a young person change, then *psychologists* review with the *client-parent* and the young person who has the capacity to give informed consent the contractual arrangements in place for the provision of those services. *Psychological services* such as assessment, treatment, or writing reports for court related purposes are each distinctly different services. Refer also to Section 5.2.
- 6.3. If a *client-parent* withdraws a young person from a *psychological service*, the *psychologist* evaluates the need to refer the young person and *client-parent* to another appropriate service and provides an appropriate recommendation to the young person and *client-parent* if required or requested.
- 6.4. Payment

Refer to the *Code*, standard C.6. Financial arrangements.

C.6.1. *Psychologists* are honest in their financial dealings.

C.6.2. *Psychologists* make proper financial arrangements with *clients* and, where relevant, third party payers. They:

- (a) make advance financial arrangements that safeguard the best interests of, and are clearly understood by, all parties to the *psychological service*; and
- (b) avoid financial arrangements which may adversely influence the *psychological services* provided, whether at the time of provision of those services or subsequently.

C.6.3. *Psychologists* do not receive any remuneration, or given any remuneration for referring *clients* to, or accepting referrals from, other professionals for *professional services*.

Refer to *Guidelines regarding financial dealings and fair trading* (2002).

- 6.4.1. When payment is required for a *psychological service* and a young person who has the capacity to give informed consent seeks to engage *psychological services* without the consent of his or her parent, *psychologists* ensure that the young person is fully informed about the cost of the service and timelines for payments, and establishes the young person's capacity to pay.
- 6.4.2. When contracting or engaging *psychological services* for which payment is required, *psychologists* do not incur expenses on behalf of a young person unless they have first established the young person's capacity to pay.

Refer to the *Code*, standard B.11. Termination of psychological services.

B.11.4. Psychologists make reasonable arrangements for the continuity of service provision for clients whose financial position does not allow them to continue with the psychological service.

- 6.4.3. When a *client*-parent terminates a *psychological service* by ceasing payment, the *psychologist* is not obliged to continue providing the *psychological service* to the young person. *Psychologists* take reasonable steps to arrange for the continuity of service provision by another service provider.

## 7. Record keeping and access to files

Refer to the *Code*, standard B.2. Record keeping.

B.2.1. *Psychologists* make and keep adequate records.

B.2.2. *Psychologists* keep records for a minimum of seven years since last *client* contact unless legal or their organisational requirements specify otherwise.

B.2.3. In the case of records collected while the *client* was less than 18 years old, *psychologists* retain the records at least until the *client* attains the age of 25 years.

B.2.4. *Psychologists*, with consideration of the legislation and organisational rules to which they are subject, do not refuse any reasonable request from *clients*, or former *clients*, to amend inaccurate information for which they have professional responsibility.

Refer to *Guidelines on record keeping* (2004).

- 7.1. When working with a young person, *psychologists* keep separate *client* records for sessions with the young person. The *client* records of the young person remain separate from records of family sessions or records of meetings with one or both of the young person's parents (Koocher, 2008).
- 7.2. When considering requests for access to file notes, it is important to refer to the relevant legislation such as the Commonwealth Privacy Act (1988), and State Health Records Acts.

## 8. Involvement of the other parent when a young person's parents are separated or divorced

- 8.1. In circumstances where the young person's parents are separated, the *psychologist* clarifies with the *client*-parent and the young person at the outset of a *psychological service* the level of any potential involvement of the other parent and what, if any, information is to be disclosed to the other parent, and the possible consequences of non-disclosure.
- 8.2. In the absence of consent by the *client*-parent and the young person for disclosure of information to the other parent and in the event that the other parent seeks information about the *psychological service* provided to the young person, *psychologists* have a duty to protect the confidentiality of the young person, which includes refraining from acknowledging whether or not a *psychological service* has been provided. In such situations, if the other parent contacts the *psychologist* and seeks information or involvement, the *psychologist*:
- a) informs the *client*-parent;
  - b) encourages the *client*-parent to discuss and resolve the issues directly with the other parent; and
  - c) if the young person is capable of giving informed consent, also informs the young person and discusses the implications of the other parent's request.
- 8.3. In circumstances when the young person has contact or spends time with the other parent, and the *client*-parent and/or young person does not wish to inform the other parent about engaging a *psychological service*, the *psychologist* discusses the possible implications with the *client*-parent and the young person (if appropriate) prior to agreeing to provide the *psychological service*. Possible factors to be considered include:
- the type of *psychological service* to be provided;
  - the relationship between the parents;

- the young person's wishes given the young person's age, maturity and capacity to make informed decisions;
- the young person's relationship with the other parent;
- whether the young person is likely to discuss with the other parent their attendance at the *psychological service*;
- whether the young person will be required by the *client*-parent to keep 'secret' their consultation with a psychologist?
- the implications for the young person if he or she unintentionally divulges the 'secret' or the other parent otherwise finds out?
- the potential reaction of the other parent;
- the implications of not providing the *psychological service*; and
- whether these and any other considerations are consistent with the young person's best interests.

- 8.3.1. In making a decision about whether to provide a psychological service to the young person, the *psychologist* considers:
- a) whether the young person's welfare is at risk including the young person's needs and level of anxiety;
  - b) whether the involvement of the other parent would be contrary to the young person's needs; and
  - c) the best interests of the young person as paramount.

- 8.4. *Psychologists* assess whether the conditions proposed by the *client*-parent in Section 8.3. will compromise the effectiveness of the psychological work, and whether these conditions are in the young person's best interests. In circumstances described in Section 8.3., *psychologists* may decline to provide a *psychological service* to the young person if the *psychologist* considers that the provision of the *psychological service* is not in the young person's best interests. *Psychologists* may refer the *client*-parent and young person to an appropriate service depending on the need for and purposes of the *psychological service* being sought.

## 9. Research contexts

Refer to the Code, standard A.3. Informed Consent.

A.3.6. Psychologists who work with clients whose capacity to give consent is, or may be, impaired or limited, obtain the consent of people with legal authority to act on behalf of the client, and attempt to obtain the client's consent as far as practically possible.

A.3.7. Psychologists who work with clients whose consent is not required by law still comply, as far as practically possible, with the processes described in A.3.1., A.3.2., and A.3.3.

Refer to the Code, standard B.14. Research.

B.14.1. Psychologists comply with codes, statements, guidelines and other directives developed either jointly or independently by the National Health and Medical Research Council (NHMRC), the Australian Research Council, or Universities Australia regarding research with humans and animals applicable at the time psychologists conduct their research.

- 9.1. Where *psychologists* are conducting research with young people they are aware of the requirements of the organisation or setting within which the research is being conducted, such as schools or hospitals. Usually these requirements will indicate what procedures are to be followed in relation to parental consent.
- 9.2. The National Health and Medical Research Council (NHMRC) National Statement on Ethical Conduct in Human Research (Second consultation) (2006) and Human Research Ethics Handbook discuss the special issues affecting research with young people, especially consent processes, the risks and benefits of the research, and considering participants' best interests. *Psychologists* are aware of the research review, and approval processes within their organisation. If working in a context without research approval processes, *psychologists* seek a relationship with an institution that has a research ethics review process.

## 10. Summary

- 10.1. The task of working with young people is frequently a complex one. *Psychologists* making decisions in relation to a young person take into account the policies of the organisation in which they work and regard the best interests of the young person as paramount. In conducting work with young people, *psychologists* thoroughly consider a range of issues. These include, but are not limited to:
- determining the best interests of the young person;
  - assessing the young person's capacity to provide informed consent;
  - clarifying and identifying whether one or both parents are *client*-parents;
  - clarifying whether the young person is to be seen on his or her own or in conjunction with the *client*-parent;
  - clarifying the limits to confidentiality;
  - establishing what information may be disclosed and to whom;
  - clarifying under what circumstances *client* information may be disclosed; and
  - clarifying the consequences of disclosing or not disclosing *client* information.
- 10.2. *Psychologists* are encouraged to review closely their practice procedures for working with young people, to clarify consent issues at the outset of providing a *psychological service*, and further clarify issues of consent if the contract for the *psychological service* changes. It is useful to consult with colleagues on these matters on a regular basis.

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## 13. Appendix

Extracts from the Family Law Act (1975).

Parental Responsibility.

Under Section 61B of the Family Law Act (1975), parental responsibility is defined as "all the duties, powers, responsibilities and authority which by law, parents have in relation to children". Section 61C of the Family Law Act (1975) states that "each of the parents of a child who is not 18 has parental responsibility of a child".

(Note: A Court Order may confirm, change, limit or extinguish a person's parental responsibility)

Definition of "Major long-term issue" in Family Law Act (1975).

Section 65DAC of the Family Law Act (1975) refers to parenting orders providing for shared parental responsibility which involves making a decision about a major long-term issue in relation to the young person. A "major long term issue" in relation to a young person means issues about the care, welfare and development of the young person of a long-term nature and includes (but is not limited to) issues of that nature about:

- a) the young person's education (both current and future);
- b) the young person's religious and cultural upbringing;
- c) the young person's health;
- d) the young person's name; and
- e) changes to the young person's living arrangements that make it significantly more difficult for the young person to spend time with a parent.

Section 65DAC (4) states that, "To avoid doubt, this section does not require any other person to establish, before acting on a decision about the child communicated by one of those persons [parents], that the decision has been made jointly".

Approved by the APS Board of Directors, May 2009.



# Definitions\*

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Code definitions used in these Guidelines:

**Associated party** means any person or organisation other than *clients* with whom *psychologists* interact in the course of rendering a *psychological service*. This includes, but is not limited to:

- (a) *clients'* relatives, friends, employees, employers, carers and guardians;
- (b) other professionals or experts;
- (c) representatives from communities or organisations.

**Client** means a party or parties to a *psychological service* involving teaching, supervision, research, and professional practice in psychology. *Clients* may be individuals, couples, dyads, families, groups of people, organisations, communities, facilitators, sponsors, or those commissioning or paying for the professional activity.

**Code** means the APS Code of Ethics (2007) as amended from time to time, and includes the definitions and interpretation, the application of the Code, all general principles, and the ethical standards.

**Conduct** means any act or omission by *psychologists*:

- (a) that others may reasonably consider to be a *psychological service*;
  - (b) outside their practice of psychology which casts doubt on their competence and ability to practise as *psychologists*;
  - (c) outside their practice of psychology which harms public trust in the discipline or the profession of psychology;
  - (d) in their capacity as *Members* of the *Society*;
- as applicable in the circumstances.

**Guidelines** mean the Ethical Guidelines adopted by the Board of Directors of the *Society* from time to time that clarify and amplify the application of the Code of Ethics. The Guidelines are subsidiary to the Code, and must be read and interpreted in conjunction with the Code. In the case of any apparent inconsistency between the Code and the Guidelines, provisions of the Code prevail. A *psychologist* acting inconsistently with the Guidelines may be required to demonstrate that his or her conduct was not unethical.

**Jurisdiction** means the Commonwealth of Australia or the state or territory in which a *psychologist* is rendering a *psychological service*.

**Legal rights** mean those rights protected under laws and statutes of the Commonwealth of Australia, or of the state or territory in which a *psychologist* is rendering a *psychological service*.

**Member** means a Member, of any grade, of the *Society*.

**Moral rights** incorporate universal human rights as defined by the United Nations Universal Declaration of Human Rights that might or might not be fully protected by existing laws.

**Multiple relationships** occur when a *psychologist*, rendering a *psychological service* to a *client*, also is or has been:

- (a) in a non-professional relationship with the same *client*;
- (b) in a different professional relationship with the same *client*;
- (c) in a non-professional relationship with an associated party; or
- (d) a recipient of a service provided by the same *client*.

**Peoples** are defined as distinct human groups with their own social structures who are linked by a common identity, common customs, and collective interests.

**Professional relationship** or role is the relationship between a *psychologist* and a *client* which involves the delivery of a *psychological service*.

**Psychological service** means any service provided by a *psychologist* to a *client* including but not limited to professional activities, psychological activities, professional practice, teaching, supervision, research practice, professional services, and psychological procedures.

**Psychologist** means any *Member* irrespective of his or her psychologist registration status.

**Society** means The Australian Psychological Society Limited.

\* Defined terms are designated in the Code and Guidelines by appearing in italics.